

025000-074

- 8 -

**REMARKS**

Claim 21 has been amended. The present patent application contains twenty-seven (27) claims. Support for the amendments can be found throughout the present patent application including the drawings and claims as originally filed. No new matter has been added.

**A. Rejection Under 35 U.S.C. § 112**

The Office Action rejects claims 21 to 27 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claim 21 has been amended as suggested by the Examiner and now recites a first piston and a second piston. Withdrawal of the Examiner's rejection is therefore respectfully requested.

**B. Rejections Under 35 U.S.C. § 102(b)**

The Office Action rejects claims 17 to 22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,950,900 issued to Frommelt et al. (hereinafter "the '900 patent").

According to MPEP § 706.02, in order to reject a claim under 35 U.S.C. § 102(b) as being anticipated by a reference, the Examiner must determine that such reference teaches every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.

There are no grounds for an anticipation rejection of independent claim 17 since the '900 patent does not teach the following highlighted features of claim 17:

17. A ram, comprising:
- (a) a main body comprising an internal cavity;
  - (b) a first piston slidingly mounted in said internal cavity and capable of movement therein;

- (c) a second piston at least partially mounted in said first piston;
- (d) an actuator mounted in said main body, said first piston being coupled to said actuator in a driving relationship, whereby movement of said first piston in said internal cavity causes displacement of said actuator with relation to said main body;
- (e) a fluid-pathway opening in said internal cavity for admitting pressurized working fluid to act on said first piston to move said first piston and displace said actuator; and
- (f) an explosive charge located within said ram, said explosive charge being adapted to detonate in response to application of an impulse thereto, a detonation of said explosive charge causing movement of said second piston thereby displacing said actuator relative to said main body, the displacement of said actuator being independent of the pressurized working fluid.

The Examiner will appreciate that the piston guide 4 of the '900 patent (identified by the Examiner as being an outer piston 4) is not coupled to an actuator whereby movement of this piston causes displacement of the actuator. Moreover, the '900 patent is completely silent on the possibility of having a fluid-pathway opening in the housing 1 for admitting pressurized working fluid to act on the piston guide 4 and displace the actuator.

Hence, the Applicant respectfully requests withdrawal of the Examiner rejection of independent claim 17 pursuant to 35 U.S.C. § 102(b). Because claim 18 depends from independent claim 17 and includes by reference all of the limitations recited in this independent claim, the Applicant respectfully submits that claim 18 is also patentable.

There are no grounds for an anticipation rejection of independent claim 19 since the '900 patent does not teach the following highlighted features of claim 19:

- 19. An autonomous gas powered ram, comprising
  - (a) a main body comprising an internal cavity;

- (b) a first piston capable of movement in said internal cavity;
- (c) a second piston at least partially mounted in said first piston;
- (d) an actuator mounted in said internal cavity, said actuator being movable in said cavity from a first operative mode to a second operative mode, in said first operative mode said actuator being in a first position relative to said main body, in said second operative mode said actuator being in a second position relative to said main body, said first position being different from said second position, said actuator being connected to said first piston whereby movement of said first piston in said internal cavity causes displacement of said actuator between said operative modes; and
- (e) an explosive charge in a detonation chamber located within said ram, said explosive charge being adapted to detonate in response of an impulse thereto, a detonation of said explosive charge causing movement of said second piston thereby displacing said actuator towards said second operative mode, wherein said internal cavity comprises a gas expansion chamber communicating with said detonation chamber once said actuator moves towards said second operative mode, the volume of said gas expansion chamber being at least equal to the volume of said detonation chamber.

The Examiner will appreciate that the '900 patent is completely silent on the possibility of having a gas expansion chamber communicating with the cartridge chamber 3. Hence, the Applicant respectfully requests withdrawal of the Examiner rejection of independent claim 19 pursuant to 35 U.S.C. § 102(b). Because claim 20 depends from independent claim 19 and includes by reference all of the limitations recited in this independent claim, the Applicant respectfully submits that claim 20 is also patentable.

There are no grounds for an anticipation rejection of independent claim 21 since the '900 patent does not teach the following highlighted features of claim 21:

025000-074

- 11 -

PATENT

21. A cartridge suitable for being mounted within the main body of a ram, the main body of the ram having a cavity with a first piston mounted therein for moving an actuator between a first operational position and a second operational position, said cartridge comprising:

- (a) an internal cavity defined by an internal wall, said internal wall comprising a locking portion;
- (b) an explosive charge located in said internal cavity, said explosive charge being adapted for detonating in response to an impulse; and
- (c) a second piston located within said internal cavity and attached to a rod, said piston being operative for causing said rod to move from a first position to a second position in response to the detonation of said explosive charge, wherein displacement of said rod from said first position to said second position causes the actuator to move towards the second operative position, and in said second position, said rod is engaged with said locking portion in order to prevent the actuator from returning to the first operative position.

The Examiner will appreciate that the driving piston 6 of the '900 patent does not engage a locking portion for preventing an actuator from returning to its initial operative position. Indeed, the driving piston 6 returns to its initial position once a fastening element has been driven into the receiving material: "After a fastening element has been driven into the receiving material, the driving piston 6 rebounds at high speed towards the surface 17 of the support member 2 which faces in the driving direction and is located in the region of the cartridge chamber 3." [Column 4, lines 63-67 of the '900 patent].

Hence, the Applicant respectfully requests withdrawal of the Examiner rejection of independent claim 21 pursuant to 35 U.S.C. § 102(b). Because claims 22 to 27 depend from independent claim 21 and include by reference all of the limitations recited in this independent claim, the Applicant respectfully submits that these claims are also patentable.

**C. Rejection Under the Doctrine of Obviousness-type Double Patenting**

The Office Action rejects claims 1 to 27 under the doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 19 of U.S. Patent 6,655,143 issued to the Applicant in view of the '900 patent. The Applicant submits a Terminal Disclaimer to overcome this rejection. In this regard, please find attached hereto this Terminal Disclaimer following page 13 of this paper.


The Examiner has indicated that claims 1 to 27 will be allowed if a Terminal Disclaimer is submitted and the Applicant therefore requests that the Terminal Disclaimer be accepted and claims 1 to 27 be allowed.

**CONCLUSION**

It is therefore submitted that claims 1 to 27 are in condition for allowance and favorable action and allowance of these claims are earnestly solicited. The Examiner is invited to call the Applicant's undersigned representative if any further amendment will expedite the prosecution of the application or if the Examiner has any suggestions or questions concerning the application or the present Response. In fact, if the claims of the application are not believed to be in full condition for allowance, for any reason, the applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP § 707.07(j) or in making constructive suggestions pursuant to MPEP § 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

  
E. Joseph Gess, Reg. No. 28,510  
Attorney for the Applicant

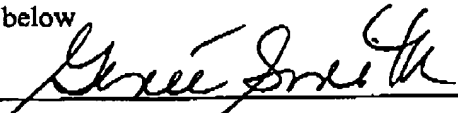
Encl.: Terminal Disclaimer

Dated: February 23, 2005

P.O. Box 1404  
Alexandria, Virginia, 22313-1404  
(713) 836-6620

The Assistant Commissioner for  
Patents is hereby authorized to charge  
payment to Deposit Account No. 02-  
4800 of any fees associated with this  
communication.

I hereby certify that this correspondence is being  
facsimile transmitted to the United States Patent  
and Trademark Office  
(Fax No. 703-872-9303) on the date shown  
below

  
\_\_\_\_\_  
\_\_\_\_\_